

Representative Sheryl L. Allen proposes the following substitute bill:

RENEWABLE ENERGY TAX CREDIT

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheryl L. Allen

Senate Sponsor: _____

6	Cosponsors:	Tim M. Cosgrove	Fred R. Hunsaker
7	Ralph Becker	Janice M. Fisher	David Ure
8	Jackie Biskupski		

LONG TITLE

General Description:

This bill addresses the renewable energy tax credit's continuing application.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ extends the availability of the renewable energy tax credit until 2011;
- ▶ expands the renewable energy tax credit to include geothermal sources; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-134, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005



26 REPEALS AND REENACTS:

27 **59-7-614**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005



29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **59-7-614** is repealed and reenacted to read:

31 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
32 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
33 **authority -- Reimbursement of Uniform School Fund.**

34 (1) As used in this section:

35 (a) "Active solar system":

36 (i) means a system of equipment capable of collecting and converting incident solar
37 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
38 by a separate apparatus to storage or to the point of use; and

39 (ii) includes water heating, space heating or cooling, and electrical or mechanical
40 energy generation.

41 (b) "Biomass system" means any system of apparatus and equipment for use in
42 converting material into biomass energy, as defined in Section 59-12-102, and transporting that
43 energy by separate apparatus to the point of use or storage.

44 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
45 association, corporation, cooperative, or other entity under which business is conducted or
46 transacted.

47 (d) "Commercial energy system" means any active solar, passive solar, geothermal
48 electricity, direct-use geothermal, wind, hydroenergy, or biomass system used to supply energy
49 to a commercial unit or as a commercial enterprise.

50 (e) "Commercial enterprise" means a business entity whose purpose is to produce
51 electrical, mechanical, or thermal energy for sale from a commercial energy system.

52 (f) (i) "Commercial unit" means any building or structure that a business entity uses to
53 transact its business except as provided in Subsection (1)(f)(ii); and

54 (ii) (A) in the case of an active solar system used for agricultural water pumping or a
55 wind system, each individual energy generating device shall be a commercial unit; and

56 (B) if an energy system is the building or structure that a business entity uses to

57 transact its business, a commercial unit is the complete energy system itself.

58 (g) "Direct-use geothermal system" means a system of apparatus and equipment
59 enabling the direct use of thermal energy, generally between 100 and 300 Fahrenheit, that is
60 contained in the earth to meet energy needs, including heating a building, an industrial process,
61 and aquaculture.

62 (h) "Geothermal electricity" means energy contained in heat that continuously flows
63 outward from the earth that is used as a sole source of energy to produce electricity.

64 (i) "Geothermal heat-pump system" means a system of apparatus and equipment
65 enabling the use of thermal properties contained in the earth at temperatures well below 100
66 degrees Fahrenheit to help meet heating and cooling needs of a structure.

67 (j) "Hydroenergy system" means a system of apparatus and equipment capable of
68 intercepting and converting kinetic water energy into electrical or mechanical energy and
69 transferring this form of energy by separate apparatus to the point of use or storage.

70 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section
71 59-10-103 and an individual as defined in Section 59-10-103.

72 (l) "Passive solar system":

73 (i) means a direct thermal system that utilizes the structure of a building and its
74 operable components to provide for collection, storage, and distribution of heating or cooling
75 during the appropriate times of the year by utilizing the climate resources available at the site;
76 and

77 (ii) includes those portions and components of a building that are expressly designed
78 and required for the collection, storage, and distribution of solar energy.

79 (m) "Residential energy system" means any active solar, passive solar, biomass,
80 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
81 supply energy to or for any residential unit.

82 (n) "Residential unit" means any house, condominium, apartment, or similar dwelling
83 unit that serves as a dwelling for a person, group of persons, or a family but does not include
84 property subject to a fee under:

85 (i) Section 59-2-404;

86 (ii) Section 59-2-405;

87 (iii) Section 59-2-405.1;

88 (iv) Section 59-2-405.2; or

89 (v) Section 59-2-405.3.

90 (o) "Utah Geological Survey" means the Utah Geological Survey established in Section
91 63-73-5.

92 (p) "Wind system" means a system of apparatus and equipment capable of intercepting
93 and converting wind energy into mechanical or electrical energy and transferring these forms of
94 energy by a separate apparatus to the point of use or storage.

95 (2) (a) (i) For taxable years beginning on or after January 1, 2006, but beginning on or
96 before December 31, 2011, a business entity that purchases and completes or participates in the
97 financing of a residential energy system to supply all or part of the energy required for a
98 residential unit owned or used by the business entity and situated in Utah is entitled to a tax
99 credit as provided in this Subsection (2)(a).

100 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a
101 residential energy system installed with respect to each residential unit it owns or uses,
102 including installation costs, against any tax due under this chapter for the taxable year in which
103 the energy system is completed and placed in service.

104 (B) The total amount of the credit under this Subsection (2)(a) may not exceed \$2,000
105 per residential unit, except that the credit may not exceed \$1,000 per residential unit for a
106 geothermal heat pump system.

107 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
108 completed and placed in service on or after January 1, 2006, but on or before December 31,
109 2011.

110 (iii) If a business entity sells a residential unit to an individual taxpayer before making
111 a claim for the tax credit under this Subsection (2)(a), the business entity may:

112 (A) assign its right to this tax credit to the individual taxpayer; and

113 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
114 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
115 individual taxpayer had completed or participated in the costs of the residential energy system
116 under Section 59-10-134.

117 (b) (i) For taxable years beginning on or after January 1, 2006, but beginning on or
118 before December 31, 2011, a business entity that purchases or participates in the financing of a

119 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

120 (A) the commercial energy system supplies all or part of the energy required by

121 commercial units owned or used by the business entity; or

122 (B) the business entity sells all or part of the energy produced by the commercial

123 energy system as a commercial enterprise.

124 (ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any

125 commercial energy system installed, including installation costs, against any tax due under this

126 chapter for the taxable year in which the commercial energy system is completed and placed in

127 service.

128 (B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000

129 per commercial unit.

130 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy

131 system completed and placed in service on or after January 1, 2006, but on or before December

132 31, 2011.

133 (iii) A business entity that leases a commercial energy system installed on a

134 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can

135 confirm that the lessor irrevocably elects not to claim the credit.

136 (iv) Only the principal recovery portion of the lease payments, which is the cost

137 incurred by a business entity in acquiring a commercial energy system, excluding interest

138 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

139 (v) A business entity that leases a commercial energy system is eligible to use the tax

140 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation

141 of the lease.

142 (c) (i) A tax credit under this section may be claimed for the taxable year in which the

143 energy system is completed and placed in service.

144 (ii) Additional energy systems or parts of energy systems may be claimed for

145 subsequent years.

146 (iii) If the amount of a tax credit under this section exceeds a business entity's tax

147 liability under this chapter for a taxable year, the amount of the credit exceeding the liability

148 may be carried over for a period which does not exceed the next four taxable years.

149 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax

150 credits provided under the laws or rules and regulations of the United States.

151 (b) (i) The Utah Geological Survey may set standards for residential and commercial
152 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
153 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
154 nonrenewable energy resources in an appropriate and economic manner.

155 (ii) A tax credit may not be taken under Subsection (2) until the Utah Geological
156 Survey has certified that the energy system has been completely installed and is a viable system
157 for saving or production of energy from renewable resources.

158 (c) The Utah Geological Survey and the commission may make rules in accordance
159 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
160 implement this section.

161 (d) The Uniform School Fund shall be reimbursed by transfers from the General Fund
162 for any credits taken under this section.

163 Section 2. Section **59-10-134** is amended to read:

164 **59-10-134. Renewable energy systems tax credit -- Definitions -- Individual tax**
165 **credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition to**
166 **allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of**
167 **Uniform School Fund.**

168 (1) As used in this part:

169 (a) "Active solar system":

170 (i) means a system of equipment capable of collecting and converting incident solar
171 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
172 by a separate apparatus to storage or to the point of use; and

173 (ii) includes water heating, space heating or cooling, and electrical or mechanical
174 energy generation.

175 (b) "Biomass system" means any system of apparatus and equipment [~~capable of~~
176 ~~converting organic plant, wood, or waste products into electrical and thermal energy and~~
177 ~~transferring these forms of energy by a separate apparatus to the point of use or storage]~~ for use
178 in converting material into biomass energy, as defined in Section 59-12-102, and transporting
179 that energy by separate apparatus to the point of use or storage.

180 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,

181 association, corporation, cooperative, or other entity under which business is conducted or
182 transacted.

183 (d) "Commercial energy system" means any active solar, passive solar, geothermal
184 electricity, direct-use geothermal, wind, hydroenergy, or biomass system used to supply energy
185 to a commercial unit or as a commercial enterprise.

186 (e) "Commercial enterprise" means a business entity whose purpose is to produce
187 electrical, mechanical, or thermal energy for sale from a commercial energy system.

188 (f) (i) "Commercial unit" means any building or structure [~~which~~] that a business entity
189 uses to transact its business, except as provided in Subsection (1)(f)(ii); and

190 (ii) (A) in the case of an active solar system used for agricultural water pumping or a
191 wind system, each individual energy generating device shall be a commercial unit; and

192 (B) if an energy system is the building or structure [~~which~~] that a business entity uses
193 to transact its business, a commercial unit is the complete energy system itself.

194 (g) "Direct-use geothermal system" means a system of apparatus and equipment
195 enabling the direct use of thermal energy, generally between 100 and 300 Fahrenheit, that is
196 contained in the earth to meet energy needs, including heating a building, an industrial process,
197 and aquaculture.

198 (h) "Geothermal electricity" means energy contained in heat that continuously flows
199 outward from the earth that is used as a sole source of energy to produce electricity.

200 (i) "Geothermal heat-pump system" means a system of apparatus and equipment
201 enabling the use of thermal properties contained in the earth at temperatures well below 100
202 degrees Fahrenheit to help meet heating and cooling needs of a structure.

203 [~~(g)~~] (j) "Hydroenergy system" means a system of apparatus and equipment capable of
204 intercepting and converting kinetic water energy into electrical or mechanical energy and
205 transferring this form of energy by separate apparatus to the point of use or storage.

206 [~~(h)~~] (k) "Individual taxpayer" means any person who is a taxpayer as defined in
207 Section 59-10-103 and an individual as defined in Section 59-10-103.

208 [~~(i)~~] (l) "Passive solar system":

209 (i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its
210 operable components to provide for collection, storage, and distribution of heating or cooling
211 during the appropriate times of the year by utilizing the climate resources available at the site;

212 and

213 (ii) includes those portions and components of a building that are expressly designed
214 and required for the collection, storage, and distribution of solar energy.

215 ~~[(j)]~~ (m) "Residential energy system" means any active solar, passive solar, biomass,
216 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
217 supply energy to or for any residential unit.

218 ~~[(k)]~~ (n) "Residential unit" means any house, condominium, apartment, or similar
219 dwelling unit ~~[which]~~ that serves as a dwelling for a person, group of persons, or a family but
220 does not include property subject to a fee under:

221 (i) Section 59-2-404;

222 (ii) Section 59-2-405;

223 (iii) Section 59-2-405.1;

224 (iv) Section 59-2-405.2; or

225 (v) Section 59-2-405.3.

226 ~~[(l)]~~ (o) "Utah Geological Survey" means the Utah Geological Survey established in
227 Section 63-73-5.

228 ~~[(m)]~~ (p) "Wind system" means a system of apparatus and equipment capable of
229 intercepting and converting wind energy into mechanical or electrical energy and transferring
230 these forms of energy by a separate apparatus to the point of use or storage.

231 (2) For taxable years beginning on or after January 1, ~~[2004]~~ 2006, but beginning on or
232 before December 31, ~~[2006]~~ 2011, any individual taxpayer may claim a tax credit as provided
233 in this section if:

234 (a) the individual taxpayer purchases and completes or participates in the financing of a
235 residential energy system to supply all or part of the energy for the individual taxpayer's
236 residential unit in the state; or

237 (b) (i) a business entity sells a residential unit to an individual taxpayer ~~[prior to]~~
238 before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

239 (ii) the business entity assigns its right to the tax credit to the individual taxpayer as
240 provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

241 (3) (a) An individual taxpayer meeting the requirements of Subsection (2) is entitled to
242 a tax credit equal to 25% of the costs of the energy system, including installation costs, against

243 any income tax liability of the individual taxpayer under this chapter for the taxable year in
244 which the residential energy system is completed and placed in service.

245 (b) The total amount of the credit under this section may not exceed \$2,000 per
246 residential unit, except that the credit may not exceed \$1,000 per residential unit for a
247 geothermal heat-pump system.

248 (c) The credit under this section is allowed for any residential energy system completed
249 and placed in service on or after January 1, [~~2001~~] 2006, but on or before December 31, [~~2006~~]
250 2011.

251 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
252 taxable year in which the energy system is completed and placed in service.

253 (b) Additional residential energy systems or parts of residential energy systems may be
254 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
255 does not exceed \$2,000 per residential unit.

256 (c) If the amount of the tax credit under this section exceeds the income tax liability of
257 the individual taxpayer for that taxable year, then the amount not used may be carried over for
258 a period [~~which~~] that does not exceed the next four taxable years.

259 (5) (a) Individual taxpayers who lease a residential energy system installed on a
260 residential unit are eligible for the residential energy tax credits if the lessee can confirm that
261 the lessor irrevocably elects not to claim the state tax credit.

262 (b) Only the principal recovery portion of the lease payments, which is the cost
263 incurred by the taxpayer in acquiring the residential energy system excluding interest charges
264 and maintenance expenses, is eligible for the tax credits.

265 (c) Individual taxpayers who lease residential energy systems are eligible to use the tax
266 credits for a period no greater than seven years from the initiation of the lease.

267 (6) (a) A business entity that purchases and completes or participates in the financing
268 of a residential energy system to supply all or part of the energy required for a residential unit
269 owned or used by the business entity and situated in Utah is entitled to a tax credit as provided
270 in this Subsection (6).

271 (b) (i) For taxable years beginning on or after January 1, [~~2001~~] 2006, but beginning on
272 or before December 31, [~~2006~~] 2011, a business entity is entitled to a tax credit equal to 25% of
273 the costs of a residential energy system installed with respect to each residential unit it owns or

274 uses, including installation costs, against any tax due under this chapter for the taxable year in
275 which the energy system is completed and placed in service.

276 (ii) The total amount of the credit under this Subsection (6) may not exceed \$2,000 per
277 residential unit.

278 (iii) The credit under this Subsection (6) is allowed for any residential energy system
279 completed and placed in service on or after January 1, [~~2001~~] 2006, but on or before December
280 31, [~~2006~~] 2011.

281 (c) If a business entity sells a residential unit to an individual taxpayer [~~prior to~~] before
282 making a claim for the tax credit under this Subsection (6), the business entity may:

283 (i) assign its right to this tax credit to the individual taxpayer; and

284 (ii) if the business entity assigns its right to the tax credit to an individual taxpayer
285 under Subsection (6)(c)(i), the individual taxpayer may claim the tax credit as if the individual
286 taxpayer had completed or participated in the costs of the residential energy system under this
287 section.

288 (7) (a) A business entity that purchases or participates in the financing of a commercial
289 energy system is entitled to a tax credit as provided in this Subsection (7) if:

290 (i) the commercial energy system supplies all or part of the energy required by
291 commercial units owned or used by the business entity; or

292 (ii) the business entity sells all or part of the energy produced by the commercial
293 energy system as a commercial enterprise.

294 (b) (i) A business entity is entitled to a tax credit equal to 10% of the costs of any
295 commercial energy system installed, including installation costs, against any tax due under this
296 chapter for the taxable year in which the commercial energy system is completed and placed in
297 service.

298 (ii) The total amount of the credit under this Subsection (7) may not exceed \$50,000
299 per commercial unit.

300 (iii) The credit under this Subsection (7) is allowed for any commercial energy system
301 completed and placed in service on or after January 1, [~~2001~~] 2006, but on or before December
302 31, [~~2006~~] 2011.

303 (c) A business entity that leases a commercial energy system installed on a commercial
304 unit is eligible for the tax credit under this Subsection (7) if the lessee can confirm that the

305 lessor irrevocably elects not to claim the credit.

306 (d) Only the principal recovery portion of the lease payments, which is the cost
307 incurred by a business entity in acquiring a commercial energy system, excluding interest
308 charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).

309 (e) A business entity that leases a commercial energy system is eligible to use the tax
310 credit under this Subsection (7) for a period no greater than seven years from the initiation of
311 the lease.

312 (8) (a) A tax credit under this section may be claimed for the taxable year in which the
313 energy system is completed and placed in service.

314 (b) Additional energy systems or parts of energy systems may be claimed for
315 subsequent years.

316 (c) If the amount of a tax credit under this section exceeds a business entity's tax
317 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
318 may be carried over for a period which does not exceed the next four taxable years.

319 (9) The tax credits provided for under this section are in addition to any tax credits
320 provided under the laws or rules and regulations of the United States.

321 (10) (a) The Utah Geological Survey may set standards for residential and commercial
322 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
323 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
324 nonrenewable energy resources in an appropriate and economic manner.

325 (b) A tax credit may not be taken under this section until the Utah Geological Survey
326 has certified that the energy system has been completely installed and is a viable system for
327 saving or production of energy from renewable resources.

328 (11) The Utah Geological Survey and the commission [~~are authorized to promulgate~~]
329 may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
330 Act, [~~which~~] that are necessary to implement this section.

331 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund
332 for any credits taken under this section.

333 Section 3. **Retrospective operation.**

334 This bill has retrospective operation for taxable years beginning on or after January 1,
335 2006.

State Impact

Passage of this bill could reduce the General Fund by \$150,000 annually beginning in FY 2008.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	(\$150,000)
TOTAL	\$0	\$0	\$0	(\$150,000)

Individual and Business Impact

Individuals utilizing renewable energy tax credits could see a reduction in their tax liability.

Office of the Legislative Fiscal Analyst